

EPA's Superfund Action Plan

Under the direction of the Deputy Administrator, EPA is preparing an Action Plan to address the recommendations in "Superfund's Future, What Will it Cost?"; a study of the Superfund program by Resources for the Future (RFF). The implementation of this Action Plan will be led by the Assistant Administrators for the Office of Solid Waste and Emergency Response and the Office of the Chief Financial Officer. After seeking input from key Congressional committees, the Office of Management and Budget, and other stakeholders, EPA will finalize the Action Plan. There are four major elements of the Action Plan.

1. Clarify the future role of the Superfund National Priorities List (NPL); and, analyze the approach to projects such as sediment and mining sites examining the roles of Superfund, other EPA programs, and other federal agencies.
2. Study states' financial capability for state-funded site activities; promote greater flexibility for states; and, reduce state costs.
3. Stress the importance of Post-Construction activities at Superfund sites with an emphasis on improving the quality and availability of five-year reviews, and tracking the implementation and effectiveness of institutional controls.
4. Strengthen program and financial management of Superfund.

Background

On July 10, 2001, Resources for the Future (RFF), an independent research institute, released "Superfund's Future, What Will it Cost?", a Congressionally directed study to estimate EPA's cost to implement the Superfund program for 10 years. RFF estimates the total 10-year cost of the program will range between \$14 billion and \$16.4 from fiscal years 2000 through 2009. One of the primary findings of the report is that a "ramping down" of Superfund is not imminent, meaning that the costs of the Superfund program will not be declining in the next 10 years. RFF makes several recommendations intended to improve the program's effectiveness and efficiency. Included in these recommendations are suggestions that EPA:

- Review and clarify the purpose of the NPL;
- Give higher priority to post-construction activities;
- Assess the level of program management, policy, and administrative support resources needed to implement the Superfund program; and,
- Improve the management and financial systems for tracking Superfund progress and costs.

EPA ACTION ITEM 1:



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Clarify the role of the Superfund National Priorities List (NPL); analyze the approach to projects such as sediment and mining sites, examining the roles of Superfund, other EPA

programs, and other federal agencies.

This action item addresses several interrelated issues. First, for all types of sites, what is the role of the NPL, will the role of the NPL change in the future as state and tribal cleanup programs evolve? Second, what is the appropriate federal role in the cleanup of widespread areas of contamination, such as sediment and mining sites, is Superfund the most appropriate authority, what are the roles of other EPA programs and other federal agencies? To answer these questions, EPA will conduct a comprehensive NPL policy review, with full stakeholder and intergovernmental involvement. EPA will convene a new subcommittee of the National Advisory Committee for Environmental Policy and Technology (NACEPT) with broad Superfund program stakeholder representation. The subcommittee will sponsor a series of stakeholder policy forums to seek broad input on matters related to EPA's NPL listing policies including the Governor's concurrence policy. In addition, subcommittee members will hold a series of meetings with EPA on NPL listing matters and listing policy options/recommendations. A critical function of the subcommittee will be to review and comment to EPA on these policy matters, utilizing the stakeholder forum information as well as their own professional perspectives.

EPA also will establish an interagency workgroup comprising members from all major EPA Superfund program organizations (HQ and Regions) and other Federal agencies directly involved in Superfund. This interagency workgroup will deliberate on the wide-ranging issues that relate to decisions on the type of sites and most appropriate process to be used in reaching decisions to place sites on the NPL. The workgroup will consider NACEPT's input, and develop final recommendations for consideration by senior EPA leaders.

GOAL: Enable Superfund policymakers to make informed decisions about the future of the program.

EPA ACTION ITEM 2:

Study states' financial capability for state-funded site activities; promote greater flexibility for states; and, reduce state costs.

States participate in the cleanup of sites through funding of their own state-specific cleanup programs and through cost sharing on federally funded cleanups, either of which could affect the listing of sites on the National Priorities List. EPA will work closely with the states to (1) complete an ongoing study to update the status of state financial capability for cleanup and determine the need for further analytical efforts; (2) study state preparedness for, and approach to, funding future Operation and Maintenance (O&M) responsibilities; (3) complete guidance for transition of surface or ground water restoration sites from EPA to state long-term response; and (4) identify innovative financing options for funding O&M and long-term response activities. EPA intends to work closely with States to implement this action plan.

To determine state financial capability, EPA will update the "Fifty State Study," which provides factual information on the status of state financing and legal authority for site cleanup work. Once the data are available, EPA will work with States to determine whether further analysis is needed. EPA will also initiate an independent baseline survey of states on their financial and

operational capability related to O&M responsibilities under CERCLA. EPA will seek joint state participation in determining the scope for and conduct of the survey. Such a study will provide a benchmark for future program management and will illuminate State funding mechanisms for O&M and long-term response activities, the role of local governments in the maintenance of sites, the number of personnel are working on these O&M issues, and other related areas of inquiry.

At Fund-financed sites where surface or ground water restoration is underway, CERCLA authorizes up to 10 years of Federal funding at 90% of the annual operating costs. EPA believes it is important to facilitate the transfer of sites to total state O&M funding following the 10-year period and will provide guidelines to EPA employees on best practices for ensuring a smooth transfer. As part of the Superfund Administrative Reforms, EPA has embarked on an effort to optimize operating ground water remediation systems. Optimization studies are ongoing at 20 sites nationwide, and we expect this effort will be expanded to other sites. EPA will continue to explore reducing operating costs for sites in the Long-Term Response phase before sites transfer to states for O&M, and include these actions in the Long Term Response Action Transfer guidance under development.

Finally, the Environmental Financing Advisory Board (EFAB), an EPA Advisory Committee, has agreed to work with States, industry and others to identify innovative financing options tailored to meet the long-term stewardship needs at sites requiring O&M. Ensuring funding over the long-term is a formidable challenge to public remediation programs and the financing expertise of the Advisory Board will help identify partnering opportunities and other financing options.

GOAL: Benchmark the current status of State cleanup program financing and capability. Develop tools that can be used by EPA and States to make remediation systems work as efficiently as possible, and to ensure financing of long-term stewardship of sites.

EPA ACTION ITEM 3:

Stress the importance of Post-Construction activities at Superfund sites with an emphasis on improving the quality and availability of five-year reviews, and tracking the implementation and effectiveness of institutional controls.

EPA will continue to ensure that Superfund cleanups are protective of human health and the environment through a comprehensive post-construction program. Emphasis will be placed on actions to improve the quality and consistency of Five-year Reviews, make Five-year Review reports readily available to the public, and track the implementation and effectiveness of institutional controls.

On July 17, 2001, EPA issued revised guidance on conducting Five-year Reviews, evaluating the protectiveness of remedies, and preparing Five-year Review reports. EPA will provide training to regional site managers on the new guidance during FY 2002. EPA headquarters will review a subset of draft Five-year Review reports prepared by each regional office during FY2002, in order to help ensure consistency with the revised guidance. In addition, beginning with the Five-year Reviews completed during FY2002, EPA will take steps to make Five-year Review reports available to the public on the EPA website. Finally, the regions will be asked to report on the status of follow-up actions identified in Five-year Review reports and ensure that this

information is available to the public.

RFF, in their report, noted 48 Five-year Review reports where they believed EPA's determination that these remedies remained protective was not clearly documented. EPA will review the reports and the remedies now in place at each of these 48 sites and provide the necessary clarification on the protectiveness of the remedies. An initial review of these sites is already underway. Detailed reviews will then be conducted where deemed necessary.

Institutional Controls are administrative or legal instruments that minimize the potential for exposure to contamination by limiting land or resource use. As such, they play an important role in remedy selection. EPA will develop and implement a system to track the implementation and effectiveness of institutional controls (e.g., easements and restrictive covenants, zoning restrictions, deed notices etc.) selected as part of Superfund response actions. This tracking will help ensure the timely implementation of institutional controls and provide a tool to monitor and evaluate their effectiveness in assuring long-term protection of human health and the environment.

GOAL: Enhance EPA's ability to ensure that Superfund cleanups remain protective of human health and the environment and make information about Superfund sites more accessible to the public.

EPA ACTION ITEM 4:

Strengthen program and financial management of Superfund.

EPA will take steps to strengthen Superfund financial and program management. There are several sub-actions that will take place as part of this overall effort, including a review of staffing levels for various program management, policy, and administrative support functions; evaluation of site-specific and non-site-specific charging; and, short- and long-term improvements to management and financial tracking systems.

a. Evaluate staffing levels and costs of program management, policy, and administrative support functions.

EPA will undertake a review of its Superfund staffing and spending levels. The Agency's goal is for the Superfund resource evaluation to be completed in 2002. Current staffing levels and costs of program management, policy and administrative support functions in the Superfund program will be examined by an Agency workgroup comprising response, enforcement, and management and support personnel in the regions and headquarters. This workgroup will conduct an analysis of the cost, role, and purpose of each category of Superfund FTE. Once the workgroup has completed its analysis of distribution of FTE by category, the data will be benchmarked against programs that are similar in size, appropriation, and scope of work at another agency.

GOAL: Develop recommendations as to how the staffing levels and costs of program management, policy, and administrative support functions should be distributed.

b. Implement short-term improvements to Superfund management and financial data systems; including the improvement of action codes. Evaluate the levels of non-site-specific time-charging by regional staff and improve Agency policies and guidance regarding Superfund time-charging.

EPA has embarked on an effort to improve and clarify the means by which we track and catalogue expenditures and staff time spent on different program activities (i.e., action codes). First, EPA will identify the Superfund data needs from program planning through budget formulation through program evaluation. The data needs evaluated will include both programmatic and financial information. This review will formally catalogue the many activities the Agency performs. Once the Superfund data needs are identified, EPA will ensure the data collection processes are established and the data structures are in place to correctly capture the relevant information. An additional aspect of this effort will be to identify and characterize the non-site charging within the regions to ensure the Agency is correctly characterizing and charging non-site and site-specific activities.

EPA will continue to stress the importance of complete and accurate project data in CERCLIS and other systems. EPA will deploy an application (Superfund eFacts) which will allow management and staff to quickly access current Superfund information in an easy to use, intuitive format. The advent of this new, higher profile, application will make it even more critical to have quality, current data. EPA will standardize and routinely conduct audits of CERCLIS data and other data accessed via the eFacts application.

When the evaluation is complete, EPA will issue appropriate guidance and instructions on coding actions in CERCLIS and IFMS as well as site-specific and non-site charging. In addition

to ensuring that managers have useful, up-to-date program and financial data available to them, the Agency will also ensure that managers have access to reports showing the level of site-specific and non-site-specific charging within the regions.

GOAL: Enhance the accessibility and usefulness of CERCLIS and IFMS so it better meets program evaluation and management need. Ensure that EPA staff charge their time and expenditures appropriately.

c. Conduct "top-to-bottom" review of the purpose, structure, and management of CERCLIS and IFMS.

EPA will conduct a review of its long-term Superfund management and financial system needs. To guide the review of Superfund information issues, the Agency will establish an executive group, composed of OSWER, OECA, OCFO, OEI, regional and state representatives. The purpose of this group will be to provide high level direction for the review, ensure that Superfund information stakeholders are appropriately included, and help obtain support for the findings, recommendations and decisions which will flow from the review. The scope of the proposed review includes the following steps: (1) determine key Superfund program information needs; (2) determine the most appropriate method for collecting and maintaining this information, either in existing systems or in new or enhanced systems; and, (3) implement appropriate system development or changes to meet the future program needs.

GOAL: Ensure that program decision-makers have access to accurate, up-to-date information needed to administer the Superfund program.